

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,	)	3:05-cr-00098-HDM-RAM
	)	3:10-cv-00531-HDM
Plaintiff/Respondent,	)	
	)	
vs.	)	ORDER
	)	
JOHNATHON ROBERTS,	)	
	)	
Defendant/Petitioner.	)	
_____	)	

Defendant has filed a request for a certificate of appealability with respect to his appeal of the court's order denying his Federal Rule of Civil Procedure 60(b) motion (#495).

The standard for issuance of a certificate of appealability calls for a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c). The Supreme Court has interpreted 28 U.S.C. § 2253(c) as follows: "Where a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: The petitioner must

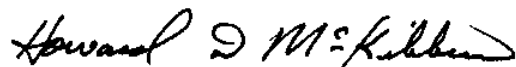
1 demonstrate that reasonable jurists would find the district court's  
2 assessment of the constitutional claims debatable or wrong." *Slack*  
3 *v. McDaniel*, 529 U.S. 473, 484 (2000); see also *James v. Giles*, 221  
4 F.3d 1074, 1077-79 (9th Cir. 2000). The Supreme Court further  
5 illuminated the standard for issuance of a certificate of  
6 appealability in *Miller-El v. Cockrell*, 537 U.S. 322 (2003). The  
7 Court stated in that case:

8       We do not require petitioner to prove, before the  
9       issuance of a COA, that some jurists would grant the  
10      petition for habeas corpus. Indeed, a claim can be  
11      debatable even though every jurist of reason might  
12      agree, after the COA has been granted and the case  
13      has received full consideration, that petitioner  
14      will not prevail. As we stated in *Slack*, "[w]here a  
15      district court has rejected the constitutional  
16      claims on the merits, the showing required to  
17      satisfy § 2253(c) is straightforward: The petitioner  
18      must demonstrate that reasonable jurists would find  
19      the district court's assessment of the  
20      constitutional claims debatable or wrong."

21 *Miller-El*, 123 S.Ct. at 1040 (quoting *Slack*, 529 U.S. at 484).

22       The court has considered the issues raised by defendant with  
23      respect to whether they satisfy the standard for issuance of a  
24      certificate of appeal, and the court determines that none meet that  
25      standard. The court therefore denies the defendant's request for a  
26      certificate of appealability (#495).

27       DATED: This 27th day of August, 2013.

28       

UNITED STATES DISTRICT JUDGE